January 13, 2006

Department of the Interior
Minerals Management Service
381 Elden Street
Mail Stop 4024
Herndon, VA 20170-4817

ATTN: Rules Processing Team

RE: Proposed Rule – Recovery of Costs Related to the Regulation of Oil and Gas Activities on the OCS-AD-23 (November 14, 2005).

Dear Sir or Madam:

As representatives of the natural gas and oil industry, the Domestic Petroleum Council, the Independent Petroleum Association of America, the International Association of Drilling Contractors, the National Ocean Industries Association, the Natural Gas Supply Association, the Offshore Operators Committee, the International Association of Geophysical Contractors, and the US Oil & Gas Association appreciate the opportunity to respond to your request for comments on the proposed rule. Our eight national trade associations represent thousands of companies, both majors and independents, engaged in all sectors of the U.S. oil and natural gas industry, including exploration, production, refining, distribution, marketing, equipment manufacture and supply, geophysical, and other diverse offshore support services. Either directly or indirectly, we are all working to explore for and produce hydrocarbon resources from the nation's Outer Continental Shelf (OCS) in an environmentally sensitive manner. The proposed regulation, therefore, is of particular importance to us.

The proposed rule would impose new fees to process certain plans, applications and permits that have previously been treated as a part of the cost of administering the lease. The fees would be imposed for exploration plans, development and production plan and development operations coordination documents, deepwater operations plans, conservation information documents, applications for permits to drill, applications for permits to modify, new facility production safety system applications, production safety system applications, platform applications for installation or modification, new or modification of pipeline applications, pipeline repair

notifications, complex surface commingling and measurement applications, simple surface commingling and measurement applications, applications to remove a platform, applications to decommission a pipeline, and permits for geological or geophysical exploration for mineral resources or scientific research.

The majority of these fees are for services that have always been treated as a part of the cost of administering the lease for which the government has already been compensated through bonus bids, rentals, and royalties. While the undersigned associations recognize that the Minerals Management Service (MMS) needs sufficient revenue to fund its activities, we do not believe that these additional fees are warranted. The proposed fees would be duplicative of existing costs imposed on industry, and could discourage exploration activity at a time when there is great concern about energy supply in this country, as expressed by the President's national energy Policy Development Group and the Congress. Furthermore, some of the proposed fees seem exorbitant, and we believe that the methodology to determine the costs of processing applications should consider the costs to do equivalent work in the private sector, rather than simply tracking the costs and time submitted by the agency.

National Energy Policy

The Administration has strongly voiced its commitment to a national energy policy that will secure our nation's energy security for the future. However, the proposed rule seeks to "double dip" by collecting additional money for activities for which the government has already been compensated. Every additional dollar collected on such duplicative fees is a dollar not being directed toward producing additional energy. And, additional energy also generates additional royalty revenue for the government. We urge the Administration to put actions behind its words, and focus on producing additional energy and revenue for the long-term, rather than imposing duplicative fees for the short-term that will be counterproductive.

Duplicative Fees

The proposed rule purports to establish fees to offset MMS's costs to conduct certain services. However, the document cited by the agency, OMB Circular A-25, provides that new user charges should not be proposed in cases where other revenues from the individuals already finance the government services provided to them. Lessees have already paid substantial amounts, often millions of dollars, to obtain leases, and substantial annual rental payments, in order to maintain the leases. The government has no need to "double dip" by collecting additional funds for the same services. Furthermore, the majority of the activities proposed for new fees are directly related to exploration, development and production of oil and gas reserves. It does not make sense to suddenly decide that there should be additional fees imposed to process applications that the agency requires companies to file in order to develop and produce the reserves on submerged lands leased to those companies.

Cost Methodology

While we do not believe the new fees should be imposed at all, we are further concerned about the cost methodology described in the notice. The cost methodology used to develop the proposed new fee schedule is based upon the sum of costs from salaries, benefits, materials and contracts or equipment, as well as a percentage of the costs for centrally paid items such as

telecommunications, space, utilities, security, property management, workman's compensation and unemployment compensation, personnel services, finance, procurement and management. This is troublesome for several reasons.

First, it is based upon time allocations reported by employees for one year (2004). There is no indication in the notice of the proposed rulemaking as to whether the time and costs reported by employees for this year was typical of all years, or whether there was outside quality control or auditing conducted over the "cost estimation methodology" used by employees and mangers to allocate time on particular projects.

Second, it seems completely inappropriate to include "indirect" costs such as personnel services, management, space, utilities, and workman's compensation in the calculation. These are costs the federal government agency would have whether or not a particular application was submitted.

Request for Working Group

In the event that the agency moves forward with these fees over our objections, we are concerned about the administrative burden the process proposed in this rule could impose on both the industry and the agency. The proposed rule appears to be transactional in nature, requiring individual billing. We request that the Minerals Management Service set up a working group with representatives of our industry to gather information on methods to minimize the administrative burden of these fees and ensure efficiency of process. For instance, there may be ways to use the existing accounting systems to make annual or other types of cumulative payments, rather than the piecemeal approach suggested in the proposed rule. We believe that we can work with the agency to improve the process suggested in the proposed rule, so that we may lessen the administrative costs for both the agency and the industry.

Procedural Matters

The notice of proposed rulemaking notes that the proposed rule would affect a substantial number of small entities, since 70% of the companies affected by the regulations are considered small lessees, covered under the Small Business Administration's North American Industry Classification system codes 211111, Crude Petroleum and Natural Gas Extraction, and 213111, Drilling Oil and Gas Wells. However, the notice determines that because it is already so expensive to do business on the OCS, a few more fees would not have a significant impact. We disagree. Additional fees always have an impact. It is illogical to say that because producing energy is already so expensive it would not impact the small business to have these expenses increase even more.

When taken together, these fees are substantial. A very conservative estimate of the fees for only one lease would include $16,250 for the exploration plan that has five surface locations, $18,750 for the five wells in the development operations coordination document, $3,150 for the deepwater operations plan, $24,200 for the conservation information document, $1,850 for the application for permit to drill, $3,300 for ten applications for permits to modify, $4,750 for a safety system application, $12,500 for MMS to visit the site, $6,500 for MMS to visit the shipyard, $19,900 for a platform application, $6,200 for two pipeline applications, $3,550 for a commingling application, $39,200 for eight downhole commingling requests, $4,100 for the

application to remove the platform, and $2,000 for the applications to decommission two pipelines. The total amount for these new fees for this lease would be $166,200. Realistically, as operators strive to maximize reserve recovery from a lease, the incremental cost in fees associated with their efforts would be significantly higher than the case described here.

We ask the agency and the Office of Management and Budget to consult with the Small Business Administration and reconsider the notice's determination on the proposed rule's impact on small lessees.

The notice also indicates that the agency has not prepared a Statement of Energy Effects pursuant to Executive Order 13211 because it does not consider the rule to be a significant energy action. The federal government, through the Office of Management and Budget, determined that it is not a significant energy action, and therefore it does not require the federal agency to prepare a Statement of Energy Effects. We differ with the federal government on its rather perfunctory determination. The proposed rule would affect all oil and natural gas operators producing energy on the Outer Continental Shelf, where more than 25% of the United States' oil and natural gas is produced. If a rule affecting the producers of 25% of U.S. oil and natural gas is not a significant energy action, then it is doubtful the Executive Order applies to any regulatory actions. We urge the Office of Management and Budget to reconsider it determination, and require the agency to comply with the requirements of Executive Order 13211.

Thank you for the opportunity to comment on the proposed rule. If you have any questions or need additional information, please contact Kim Harb at (202)737-0926.

Sincerely,

National Ocean Industries Association

Independent Petroleum Association of America

US Oil & Gas Association

International Association of Drilling Contractors

Domestic Petroleum Council

Natural Gas Supply Association

Offshore Operators Committee

International Association of Geophysical Contractors